

**ASSEMBLY BILL**

**No. 1153**

**Introduced by Assembly Member Bermudez**

February 21, 2003

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An act to amend Section 538e of, and to add Section 538g to, the Penal Code, relating to crime, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1153, as introduced, Bermudez. Crime.

Existing law provides that a person who willfully makes or sells any badge which falsely purports to be authorized for the use of a peace officer, or which so resembles the authorized badge of a peace officer, as specified, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not exceeding one year, a fine not exceeding \$15,000, or both that imprisonment and fine.

This bill would provide that any person who willfully makes or sells any badge which falsely purports to be authorized for the use of an officer or member of a fire department or deputy state fire marshal, or which so resembles the authorized badge of an officer or member of a fire department or deputy state fire marshal, as specified, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not exceeding six months, a fine not exceeding \$15,000, or by both that imprisonment and fine.

Existing law provides that any person, other than one who is a peace officer or an officer or member of a fire department, who willfully wears, exhibits, or uses a badge, insignia, emblem, certificate, card, or writing of a peace officer or of an officer or member of a fire department, with specified intent, or any person who does the same with

respect to any badge, insignia, emblem, certificate, card, or writing which falsely purports to be authorized for the use of one who by law is given the authority of a peace officer or of an officer or member of a fire department, or which so resembles such an item, is guilty of a misdemeanor.

This bill would provide that any person, other than one who is a state, county, city, special district, or city and county officer or employee, who willfully wears or uses a badge or photographic identification card of a state, county, city, special district, or city and county officer or employee, with specified intent, is guilty of a misdemeanor. This bill would also provide that any person who does the same with respect to any badge or photographic identification card or who willfully makes or sells any badge or photographic identification card which falsely purports to be authorized for the use of a state, county, city, special district, or city and county officer or employee, or which so resembles such an item, is guilty of a misdemeanor, punishable by imprisonment in a county jail for a period not to exceed one year, a fine not to exceed \$15,000, or by both that imprisonment and fine. Because this bill would change the definition of a crime, and would create a new crime, it would impose a state-mandated local program. This bill would declare that it is to take effect immediately as an urgency statute.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 538e of the Penal Code is amended to  
2 read:

3 538e. Any person, other than an officer or member of a fire  
4 department, who willfully wears, exhibits, or uses the authorized  
5 badge, ~~insigne~~ insignia, emblem, device, label, certificate, card, or  
6 writing of an officer or member of a fire department or a deputy



1 state fire marshal, with the intent of fraudulently personating an  
2 officer or member of a fire department or the Office of the State  
3 Fire Marshal, or of fraudulently inducing the belief that he is an  
4 officer or member of a fire department or the Office of the State  
5 Fire Marshal, is guilty of a misdemeanor.

6 Any person who willfully wears, exhibits, or uses, *or who*  
7 *willfully makes, sells, loans, gives, or transfers to another*, any  
8 badge, ~~insigne~~ insignia, emblem, device, or any label, certificate,  
9 card, or writing, which falsely purports to be for the use of an  
10 officer or member of a fire department or deputy state fire marshal,  
11 or which so resembles the authorized badge, insigne, emblem,  
12 device, label, certificate, card, or writing of an officer or member  
13 of a fire department as would deceive an ordinary reasonable  
14 person into believing that it is authorized for use by an officer or  
15 member of a fire department or a deputy state fire marshal, is guilty  
16 of a misdemeanor, *except that any person who makes or sells any*  
17 *badge under the circumstances described in this subdivision is*  
18 *guilty of a misdemeanor punishable by imprisonment in a county*  
19 *jail not exceeding six months, or by a fine not to exceed fifteen*  
20 *thousand dollars (\$15,000), or by both that imprisonment and fine.*

21 Any person who, for the purpose of selling, leasing or otherwise  
22 disposing of merchandise, supplies or equipment used in fire  
23 prevention or suppression, falsely represents, in any manner  
24 whatsoever, to any other person that he is a fire marshal, fire  
25 inspector or member of a fire department, or that he has the  
26 approval, endorsement or authorization of any fire marshal, fire  
27 inspector or fire department, or member thereof, is guilty of a  
28 misdemeanor.

29 SEC. 2. Section 538g is added to the Penal Code, to read:

30 538g. (a) Any person, other than a state, county, city, special  
31 district, or city and county officer or employee, who willfully  
32 wears, exhibits, or uses the authorized badge or photographic  
33 identification card of a state, county, city, special district, or city  
34 and county officer or employee, with the intent of fraudulently  
35 personating a state, county, city, special district, or city and county  
36 officer or employee, or of fraudulently inducing the belief that he  
37 is a state, county, city, special district, or city and county officer or  
38 employee, is guilty of a misdemeanor.

39 (b) Any person who willfully wears, exhibits, or uses, or  
40 willfully makes, sells, loans, gives, or transfers to another, any

1 badge or photographic identification card which falsely purports  
2 to be for the use of a state, county, city, special district, or city and  
3 county officer or employee, or which so resembles the authorized  
4 badge or photographic identification card of a state, county, city,  
5 special district, or city and county officer or employee as would  
6 deceive an ordinary reasonable person into believing that it is  
7 authorized for use by a state, county, city, special district, or city  
8 and county officer or employee, is guilty of a misdemeanor  
9 punishable by imprisonment in a county jail for a period not to  
10 exceed one year, a fine not to exceed fifteen thousand dollars  
11 (\$15,000), or by both that imprisonment and fine.

12 SEC. 3. No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section 17556 of  
18 the Government Code, or changes the definition of a crime within  
19 the meaning of Section 6 of Article XIII B of the California  
20 Constitution.

21 SEC. 4. This act is an urgency statute necessary for the  
22 immediate preservation of the public peace, health, or safety  
23 within the meaning of Article IV of the Constitution and shall go  
24 into immediate effect. The facts constituting the necessity are:

25 In order to enhance security and increase public safety, the  
26 unauthorized use of badges and photographic identification cards,  
27 and the illegal manufacture of badges and photographic  
28 identification cards that falsely purport to be, or that resemble, the  
29 authorized badge or photographic identification cards, of fire  
30 department officers or members, and of all state, county, city,  
31 special district, or city and county officers and employees must be  
32 curtailed, thus, it is necessary that this act take effect immediately.

